

25. The method as claimed in claim 10, wherein the effective amount of boswellic acid, a physiologically acceptable salt, a derivative, a salt of the derivative or a plant preparation containing boswellic acid is administered together with a pharmaceutical compound.

26. The method as claimed in claim 10, wherein a pharmaceutical extract is also present.--

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

Claims 10 and 16 have been amended to clarify the preferred invention. Claim 10 has been amended to incorporate the subject matter of claim 11 (which has been canceled, without prejudice or disclaimer to the subject matter disclosed therein). Claim 16 has been amended to clarify that in the method of claim 10, a pharmaceutical compound may also be present. Support for this amendment to claim 16 may be found, at the very least, at page 12, lines 32-33. New claims 17-23 find support in original claims 10-16. New claim 24 finds support, at the very least, at page 12, lines 10-12. Support for new claim 25 may be found, at the very least, in claim 16 and at page 12, lines 32-33. Finally, support for new claim 26 may be found, at the very least, in claim 16 and in Example 4, page 17. No new matter has been added by the present amendment.

Rejection of Claims 10-16 Under 35 U.S.C. § 112, First Paragraph

Claims 10-16 have been rejected under 35 U.S.C. § 112, first paragraph, for purportedly not being enabled for the prevention of tumors and neoplasms. This rejection is respectfully traversed.

Claim 10 has been amended to remove reference to preventing or combating tumors or neoplasms, thereby rendering moot the Examiner's rejection. Furthermore, new claim 17 is drawn to a method of combating tumors or neoplasms, not preventing tumors and neoplasms, which the Examiner purports is not enabled by the specification. In light of these amendments to the claims, applicants respectfully request withdrawal of this rejection under 35 U.S.C. § 112, first paragraph.

Rejection of Claim 10 Under 35 U.S.C. § 112, Second Paragraph

Claim 10 has been rejection under 35 U.S.C. § 112, second paragraph, for purportedly being indefinite. According to the Examiner, the term "plant preparation" is not clearly defined in the specification, and therefore it is purportedly unclear what methods for processing plant material are intended to be used to prepare the "plant preparation". Applicants respectfully traverse this rejection.

In In re Morris, 127 F.3d 1048 (Fed. Cir. 1997), the court stated "the PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification." Id. at 1054. Thus, the term "plant preparation" should be given the broadest reasonable meaning of the

words in their ordinary usage as they would be understood by one of skill in the art, taking into account definitions given in the specification. One of skill in the art would know what is meant by the term "plant preparation". Furthermore, on page 12, lines 9-13, the applicants provide specific examples as to what types of preparations may be useful in the present invention. Therefore, the term "plant preparation" is not indefinite.

In view of these remarks, withdrawal of this rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Rejection of Claim 16 Under 35 U.S.C. § 112, Second Paragraph

Claim 16 has been rejected under 35 U.S.C. § 112, second paragraph, for purportedly being indefinite. According to the Examiner, claim 16 is indefinite for the recitation of the term "chemically pure" and the word "substance."

Claim 16 has been amended to delete these terms and instead recite "a pharmaceutical compound," thereby rendering this rejection moot. Furthermore, new claim 25 has been added to recite the method as in claim 10 wherein a pharmaceutical extract is also present. As mentioned above, the court in In re Morris, 127 F.3d 1048 (Fed. Cir. 1997), stated that terms in a claim should be given their broadest reasonable interpretation during prosecution. One of skill in the art would know what is meant by "pharmaceutical compound" and "pharmaceutical extract", and thus these terms are not indefinite in view of the written description in the specification and what is known to one of skill in the art.

In light of these remarks, and the amendment to claim 16, applicants respectfully request withdrawal of this rejection under 35 U.S.C. § 112, second paragraph.

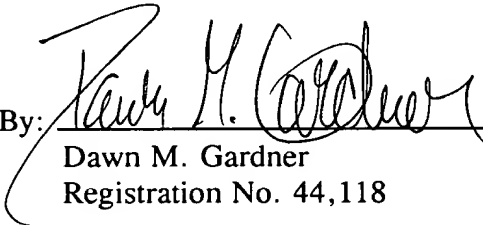
CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

In the event that there are any questions relating to this application, the Examiner is invited to telephone the undersigned so that prosecution of the subject application may be expedited.

Respectfully submitted,

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